

**El Dorado/Alpine County  
Enforcement Workplan  
2010-2013**

**Revised 1/22/10**

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## **County Resources**

- Agricultural Commissioner retired 12/30/2009 and is currently back working part time until new commissioner is hired
- Deputy Agricultural Commissioner—70% of time in Pesticide Use Enforcement (PUE)—this is an estimate due to the commissioner retirement and increased oversight of other programs
- Senior Biologist—75% of time in PUE
- Senior Biologist—29% of time in PUE
- Biologist I—5% of time in PUE
- GIS duties performed by the Biologists involved in the PUE program
- Sr. Office Assistant-part time clerical pesticide program support

Annual workload expectations for FY 2010-2013 include:

- 169 restricted materials permits (RMPs)
- 629 annual sites for restricted materials
- 365 Operator Identification Numbers
- 186 Notice of Intents (NOI's)
- 45 Private Applicators Certified by Exams
- Pre-Application Site inspections on at least 5% of NOI's
- Conduct a minimum of 71 inspections in various categories; Applications & Mix/Load Inspections of Growers, Pest Control Operator's (PCO's), and Structural operators, Headquarters Inspections, Field Worker Safety, Fumigations, Pest Control Advisers (PCA) and Dealer Records Inspections
- Ag-Urban interface issues have been increasing each year which increases complaint investigations
- Clerical support staff reductions will increase work load on Biologists for Pesticide Use data entry

### **A. Restricted Materials Permitting**

#### **1. Permit evaluation**

- Approximately 169 RMPs are issued annually
- Permits are valid for one year, expiring at the end of the calendar year in which they are issued (December 31) which allows for regular review of permits
- Permits are mostly for permanent type crops (orchards, vineyards, forest) with only a small amount of applications for seasonal crops (pumpkins, tomato etc)
- Permits are only issued by three licensed and trained staff
  - ❖ Deputy Agricultural Commissioner
  - ❖ Senior Agricultural Biologists

- Permits are issued to the operator of the property or their authorized representative. A letter of authorization from the property operator is required for issuance of a permit to anyone other than the operator
- Individual appointments are required for permit issuance and are scheduled in advance so files can be reviewed and new permit applications can be prescreened for hazards that may necessitate denials prior to the appointment
- Due process is provided when denying a permit
- Permits are only issued to Certified Private Applicators or Qualified Applicator Certificate or License holders
- Permit issuance takes approximately one hour
- The majority of permits are issued for azinphos-methyl, carbaryl, 2,4-D, paraquat, strychnine and aluminum phosphide.
- Pesticides on permit are verified for site and commodity
- Permits and maps are reviewed with the operator during issuance to determine if there have been changes to adjacent properties which could create a potential environmental or health effect impact
- Location of employee housing on permitted properties are reviewed with operator during issuance or renewal
- Permittees are asked whether alternatives to restricted materials were considered
- Permittees are asked what mitigation measures were considered to reduce the risks of the use of a restricted material
- Permits are conditioned to mitigate various hazards
- Department of Pesticide Regulation (DPR) Recommended Permit Conditions are utilized
- Permits are entered into the AgGIS 3 program for El Dorado County or Alpine County
- All agricultural permits are site specific and maps are required
- Sites are identified by an alpha numeric system, typically with the number identified with a specific site map and the letter identifying a commodity
- Sites are continually re-evaluated with growers during permit renewals
- Maps are created in a Geographic Information System (GIS) database for El Dorado County which includes parcel, road, aerial photos, water (creeks, lakes, ponds, irrigation ditches) layers and Topo maps. There are also created layers for schools, organic farms, crops and Bus Routes of the Camino School District
- Sensitive areas are identified on the map
- Handouts that are reviewed with permittee at time of permit issuance include:
  - ❖ RMP conditions
  - ❖ Notice of Intent forms and submission requirements
  - ❖ Pesticide Safety Information Series A or N
  - ❖ Worker Protection Standards synopsis

- ❖ Field Worker Safety regulations
- ❖ Application Specific Information requirements with growers who have fieldworkers
- ❖ Field Posting regulations
- ❖ Handler training regulations
- ❖ California Restricted Materials sheet
- ❖ Pesticide Use Report forms and instructions
- ❖ Employer and Business Pesticide Use Compliance Guide
- ❖ Information from DPR's PRESCRIBE Endangered Species Online Database
- ❖ Complying with rules on dormant sprays
- ❖ Wellhead protection regulations
- ❖ Guidelines for a Respiratory Protection Program
- ❖ Personal Protective Equipment guidance
- ❖ Enforcement Response Guideline Regulations
- ❖ Best Management Practices for protecting water quality
- ❖ New regulations
- The County administers private applicator certification exams on an individual basis
- Certification exams take approximately one hour
- Permit renewals and certification exams generally occur from December thru March
- Major changes on the permit (adding a pesticide or commodity, add/delete a site) require permittee to sign and date the amended permit. Minor changes (phone numbers etc.) are just noted on the permit

### Strengths

- Permit appointments are on an individual basis which makes conveyance of information easier
- GIS component that utilizes a variety of layers (Aerial photos, Topo maps, Parcel layer that is updated weekly)
- Very little aerial spraying is done in the county
- Staff is experienced setting up buffer zones when needed
- Limited PUE staff allows good knowledge of local conditions
- Utilize DPR's PRESCRIBE Endangered Species Online Database
- Permit system is a temporal database which tracks changes over time

### Areas Needing Improvement

Need to continue to work with the AgGIS 3 vendor to integrate parcel data into the permit program

Need to continue to work with the AgGIS 3 vendor to integrate additional layers for other sensitive sites such as organic crops and buffering of roads into the permit program

### Goals

Remedy all weaknesses identified during the evaluation process for restricted materials permits and continue to evaluate the process for improvements with considerations given to any new regulations or Enforcement letter updates that may apply to the permitting process

Implement new layers/buffers in the new AgGIS 3 program as information becomes available

### Deliverables

- Continue to add new sites to permits that have a non-contiguous commodity to better address sensitive site issues to each block
- Request NOI for groundwater herbicide materials so pre-site inspections can occur to evaluate for sensitive sites (wells)
- Continue to locate employee housing on file maps during each permit seasons
- Continue to update aerial layer as they become available for our GIS maps
- Implement a ¼ mile buffer layer around schools in the new AgGIS 3 permit program
- Implement an Organic Farms layer in the new AgGIS 3 permit program
- Incorporate a layer into the new AgGIS 3 permit program that utilizes Section/Township/Range Endangered Species information from DPR's PRESCRIBE Database

### Measure Success

- At end of each year files will have continued to have improved sites for evaluation
- At end of each year new layers will be evaluated to be incorporated into the Ag GIS 3 permit program
- At end of each year new aerial layers will have been evaluated for use in the GIS system
- At end of each year files will have continued to update any employee housing on file maps
- At end of each year well sites will have been inspected where groundwater protection list herbicide materials are used

## 2. Site Monitoring Plan Development

- Approximately 629 annual sites
- Approximately 186 Notices of Intent are received per year
- NOIs are reviewed by three licensed and trained staff, Deputy Ag Commissioner and two Senior Ag. Biologists
- 24 hour NOIs are required
- NOIs are accepted by telephone, fax, or in person. In person or by fax are accepted on weekdays only, 8:00am – 5:00pm. Phone notices can be directly dialed to a dedicated NOI line or staff can direct the call to licensed staff for review Mondays-Fridays during work days. Phone NOIs for the weekend must be in by 4:00pm on Fridays so staff can use files to review the notice.
- NOIs are recorded on a paper form that are filed monthly in the individual permit files
- All non-agricultural RMPs are required to submit a NOI until one inspection has occurred during the calendar year
- The majority of NOIs are for the following restricted materials and crops including the usual time of year received:
  - ❖ Azinphos-methyl for apples/pears, May-August
  - ❖ Carbaryl for apple thinning, April-May
  - ❖ 2, 4-D for pasture & rangeland, February-April/ for forest, May-June
  - ❖ Paraquat for wine grapes, April-May
  - ❖ Strychnine for wine grapes & orchards, April-June
  - ❖ Aluminum Phosphide for landscaped areas, March-August
  - ❖ Sulfuryl fluoride for structural fumigations, approx 20 per year
- El Dorado County has very little rotational crops. Most non-permanent crops are grown for the farmers' market season and use non-restricted materials if treatment is needed
- Pre-application site inspections are performed on at least 5% of NOIs received per year
- Sites to evaluate are based upon:
  - ❖ Pesticide's potential to cause adverse health effects
  - ❖ Pesticide's potential to cause adverse environmental effects
  - ❖ Applications near residences
  - ❖ Application near roads
  - ❖ Applications near sensitive crops or organic farms
  - ❖ If operator has employee handlers and/or fieldworkers
  - ❖ Previous NOI denials
  - ❖ Compliance histories
  - ❖ Presence of Endangered/Threatened species in the area
  - ❖ Local conditions which increase potential for drift
- NOIs are reviewed to ensure

- ❖ A valid RMP was issued for the material to be applied and is listed for the intended site
- ❖ Application site is allowed by the label, Section 18 or SLN
- ❖ Rate per acre is allowed
- ❖ Pest Control Business (PCB) is licensed in the proper category
- ❖ If environmental changes have occurred since permit issuance the site is reviewed for potential hazards
- ❖ The time and place of proposed application is not in Camino School Bus buffer zone restrictions
- ❖ Permit Conditions are being followed

### Strengths

- Many growers have been using less hazardous pesticides in their spraying rotations
- Pest thresholds are monitored to minimize pesticide applications
- Most sites have had very few changes to adjacent environments
- The Apple Hill Growers Association uses one PCA for their recommendations who also lives in the area
- Staff with knowledge of local conditions
- Dedicated phone line for NOIs
- El Dorado County has implemented the use of Tablet PCs for inspections so compliance histories will be available during Pre-application site inspections.
- Pre-application site inspections were performed on over 10% of the NOI received during 2009

### Areas Needing Improvement

Need to continue to verify actual field boundaries to maps created with grower in the office

### Goals

Ensure that the site-monitoring plan is effective and takes into consideration risk factors such as:

- Pesticide hazards associated with azinphos-methyl (a cholinesterase inhibitor), carbaryl ( a carbamate pesticide), paraquat (acute toxicity herbicide), phenoxy herbicides (2,4-D) which can volatilize and move off site, strychnine (convulsive poison), aluminum phosphide (acute inhalation toxicity), sulfuryl fluoride (acute inhalation toxicity) or any other RM used

- Local conditions such as wind patterns, temperature, inversions, new or old housing developments with ag/urban interface, endangered species habitats
- Compliance histories of the permittee, employee handlers, PCO and PCAs
- Continue to train PUE staff on site-monitoring inspections

### Deliverables

- Pre-Application inspections will continue to be done for at least 5% of the NOIs
- NOIs with less than 24 hour notice will be given Violation Notices
- Tablet PCs will be utilized during Pre-Site evaluations to update our existing crop locations and surrounding sensitive sites.
- NOI logs will show that they were received by 4:00pm on Friday for weekend applications

### Measure Success

- Review of NOI numbers and Pre-Application inspections during each year will show at least the minimum 5% site inspections
- NOI logs will show that they were received at least 24 hours before start of planned application and none should be received over the weekend

## **B. Compliance Monitoring**

### 1. Comprehensive Inspection Plan

- Inspections are performed by three licensed and trained staff
  - ❖ Deputy Agricultural Commissioner
  - ❖ Senior Agricultural Biologist
  - ❖ Agricultural Biologist II
- Inspections are usually performed between 8:00am – 5:00pm but some occur earlier or later as schedules allow
- Approximately 25% of all inspections are scheduled
  - ❖ Headquarter inspections
  - ❖ PCA records inspections
  - ❖ Forestry inspections
  - ❖ Pre-Application site inspections if access permission is requested by operator
- The majority of agricultural inspections take place February – August and are in mainly two geographic areas of the county



- ❖ Apple Hill, which runs from Placerville through Camino and consists of orchards and vineyards, and
- ❖ South County (Somerset, Fairplay & Mt Aukum areas) which consists mostly of vineyards
- Approximately 50% of the inspections per year are agricultural (applications and mix/loads done by growers or PCO's and Field Worker Safety inspections). Inspections are either random or targeted because of NOIs
- Targeted surveillance and inspections of Ag. Applications are based on
  - ❖ Toxicity of pesticides applied (from NOI)
  - ❖ Prior areas of episode occurrence
  - ❖ Compliance history of operator
  - ❖ Employee handlers
  - ❖ If fieldworkers are present in area
  - ❖ Changes in federal or state registration designations of a pesticide ex: pesticide becomes a federally or state restricted material
- Approximately 25% of inspections are in more urban areas (El Dorado Hills, Cameron Park, Placerville and South Lake Tahoe) and are random surveillance of structural pest control businesses and landscape maintenance firms
- Activities to identify unlicensed maintenance gardeners will be increased. Unlicensed maintenance gardeners have an unfair business advantage over licensed pest control businesses. Unlicensed businesses are also found to commit more violations than licensed businesses. These applicators are usually found on a random basis. Active outreach is being performed to provide licensing information to these businesses.
- Unlicensed maintenance gardeners are often seen in El Dorado Hills and Cameron Park areas
- Analysis of the 08/09 inspections shows that overall there was a 10% non-compliance rate
- Analysis of the 08/09 show
  - ❖ For Use Monitoring Inspections 18% of the property operators had non-compliances
  - ❖ 50% of Fieldworker Safety Inspections had non-compliances
  - ❖ Structural Pest Control businesses had a 6% non-compliance rate for applications
  - ❖ Agricultural Pest Control businesses had a 14% non-compliance rate for applications
- The frequency of headquarter employee safety inspections is currently about every 2-3 years
- The frequency of dealer inspections is every 1-2 years
- The frequency of PCA records inspections is every 1-2 years

## Strengths

- An annual permit cycle allows updating growers on new regulations and changes
- An annual review of files allows review of prior non-compliances for the year and non-compliances in paperwork submission to the department
- A staff familiar with the seasonal pesticide application cycles within the county
- Increased compliance monitoring in geographic areas where previous episodes have occurred
- Tablet PC are now used for inspections so compliance histories are immediately available

## Areas Needing Improvement

Staffing changes have reduced inspections during 2009 so need to work to increase inspection levels

Due to permit restrictions on applications times in the Apple Hill area and budget constraints on hours staff can work it has become difficult to observe applications during certain hours of the day

## Goals

The compliance inspection plan will ensure that pesticide use is adequately monitored and effective throughout the county and increases compliance in areas of deficiencies previously identified

Coordinate with DPR to conduct 5-6 joint oversight inspections per year

Inspect wineries to assess pesticide use and licensing compliance with the application of Sulfur Dioxide (SO<sub>2</sub>)

Work with the County Business Licensing departments to give informational letters to maintenance gardeners about state licensing requirements for businesses applying pesticides.

## Deliverables

- Maintain frequency of inspections for structural headquarters, dealer, and advisor inspections
- Increase frequency of grower headquarter inspections where fieldworker safety violations have occurred
- Increase fieldworker safety inspections
- Conduct inspections of wineries for SO<sub>2</sub> applications

- Maintain surveillance for unlicensed Pest Control landscape businesses
- Continue targeting restricted material applications for inspections

### Measuring Success

- Review inspection records in each year to see if inspection frequency is maintained or increased
- Review non-compliances from inspections during each year to adjust targeted inspections to coincide with problems
- Review inspection records each year to make sure they include Use Monitoring inspections of restricted materials
- Review inspection records for each year for monitoring inspections of SO2 applications in wineries

## 2. Investigation Response and Reporting Improvement

### Investigation Response and Reporting

- Investigations are conducted by three licensed and trained staff: A Deputy Ag. Commissioner, who conducts approximately 30% of the investigations; and two Senior Ag. Biologists, who conduct approximately 70% of the investigations
- The Deputy Agricultural Commissioner oversees investigation progress
- Complaints are received by the secretary and directed to one of the Senior PUE biologists or the Deputy Agricultural Commissioner
- Investigations of complaints are initiated in a timely manner
- All complaints that may be associated with pesticides are investigated and documented on a complaint form or in an investigation report
- A Complaint/Investigation log is kept which includes: Date, File name, Pesticide involved, Type of episode, Location of episode, if violations were found, Date investigation closed
- The Enforcement Branch Liaison (EBL) from DPR is informed of complaints that may involve environmental or human health effects
- All investigation reports are reviewed and signed by the Agricultural Commissioner once completed
- Investigations are conducted using the DPR Pesticide Episode Investigation Procedures Manual
- Sampling is done following DPR's Investigative Sampling Manual
- In the last two fiscal years there were 26 investigations/complaints
- All investigations were non-priority investigations
- All of the investigation reports were completed within 120 days and none were returned for additional information

### Strengths

- Investigation of complaints are usually initiated on the day they are received
- Over 50% of the complaint investigations are completed in 3-5 days
- Investigation reports are completed within the 120 day requirement
- Staff stays current with investigative training
- Violations discovered during investigations has allowed the department to take preventative measures (ex: bus route buffer zones) and direct applicators to alter methods to prevent future incidents

### Areas Needing Improvement

Often initial incident reports are incomplete and do not have contact information for the injured party. The department is working to obtain a contact in the health department who can help obtain this information

### Goal

The goal is to maintain the current investigation response plan and continue to initiate and complete all investigations in a timely manner with accurate and thorough reporting

### Deliverables

- Investigation of complaints and episodes are initiated and completed in the timely manner required by the state
- Investigation reports that are complete, accurate and discuss violations discovered during the investigation
- Continue to work on developing an Arc GIS component that can be used with the Tablet PCs in the field in response to incident investigations

### Measure Success

- Review at end of each year investigation reports that were not completed on time
- Review at end of each year investigation reports that were returned for being incomplete

## **C. Enforcement Response**

### **Enforcement Response Evaluation**

- Compliance actions (Violation Notice, Warning Letters) are done by three licensed and trained staff, a Deputy Ag. Commissioner and two Senior Biologists
- Decision Reports are written infrequently and only at the decision of the Agricultural Commissioner. They are written by the Deputy Ag. Commissioner
- Enforcement actions are discussed with the Agricultural Commissioner prior to implementation
- Enforcement actions are prepared by the Deputy Ag. Commissioner
- Training of Senior Ag Biologists in writing Notices of Proposed Actions (NOPAs) will begin in 2010
- The DPR and County Agricultural Commissioners Enforcement Response Regulations (ERR) are followed to determine the appropriate action based on violations that occurred
- NOPAs provide respondents with the proposed fine level, the details of the alleged violations with cited code sections and their rights to a hearing to review evidence and be heard
- All Enforcement actions are reviewed and signed by the Agricultural Commissioner
- For Agricultural Civil Penalties (ACPs) the fine guidelines in Title 3, California Code of Regulations 6130(a) are followed
- For Structural Civil Penalties (SCPs) the fine guidelines in Title 16, California Code of Regulations 1922(a) are followed
- A Pesticide Enforcement/Compliance Action Summary is prepared for each NOPA and NOPAs are sent to DPR simultaneously with NOPAs sent to the respondent
- A separate set of files are kept for each NOPA respondent so you can quickly review if there were previous enforcement actions

### **Strengths**

- Small staffing levels allow for timely approval of actions
- Files are easily reviewed for previous actions
- Use DPR guidelines and sourcebooks for action preparation

### **Areas Needing Improvement**

Need to train other PUE staff on writing NOPAs so they will be completed in a timely manner

### Goal

Ensure enforcement actions in response to violations are fair, consistent and timely

### Deliverables

- Train other PUE staff on NOPA writing
- Complete enforcement/compliance actions in a timely manner which are consistent with the ERR

### Measure Success

- A review of compliance actions each year shows they were prepared in a timely manner
- A review of enforcement actions each year show they were prepared (and went to hearing if applicable) in a timely manner
- Review enforcement/compliance actions for each year to verify consistency with the ERR and penalty regulations